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8 Disbursing Agent for Debtors

9
10 UNITED STATES BANKRUPTCY COURT
11 DISTRICT OF NEVADA

12 * * * * *

13 IN RE:

BK 10-52518-GWZ
(Chapter 11)

14 EVAN LADELL ALLRED and
15 VICKIE LYNETTE ALLRED,

16 Debtors.

**MOTION REQUESTING COURT
ORDER DIRECTING DEBTORS TO
IMPLEMENT PLAN BY
TURNOVER OF DEBTORS' NON-
EXEMPT MOTOR HOME(11 U.S.C.
§1142)**

Hrg. Date: April 26, 2012
Hrg. Time: 2:00 p.m.
Est. Time: 5 minutes
Set By: Linda Duffy

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19 COMES NOW, GLORIA M. HARRIS-PETRONI, ESQ., Disbursing Agent for the
20 bankrupt estate of EVAN LADELL ALLRED and VICKIE LYNETTE ALLRED, husband and wife,
21 Debtors herein("Debtors"), and hereby files this MOTION REQUESTING COURT ORDER
22 DIRECTING DEBTORS TO IMPLEMENT PLAN BY TURNOVER OF DEBTORS' NON-
23 EXEMPT MOTOR HOME (11 U.S.C. § 1142), and alleges as follows:

- 24
25 1. The Debtors filed a Voluntary Petition for Chapter 11 relief on June 26, 2010.
26 2. The Debtors filed a SECOND AMENDED PLAN OF REORGANIZATION
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28 [Docket No. 177], as subsequently amended by the FIRST AMENDMENT TO DEBTORS' SECOND

1 AMENDED PLAN OF REORGANIZATION [DOCKET NO. 204], and subsequently amended by
 2 the SECOND AMENDMENT TO DEBTOR' SECOND AMENDED PLAN OF
 3 REORGANIZATION [DOCKET NO. 206], and subsequently amended by the VERIFICATION OF
 4 EVAN ALLRED AND VICKIE ALLRED IN SUPPORT OF FIRST AMENDMENT TO DEBTORS'
 5 SECOND AMENDED PLAN OF REORGANIZATION, AS AMENDED [DOCKET NO. 207] and
 6 the ERRATA TO DEBTORS' SECOND AMENDED PLAN OF REORGANIZATION [DOCKET
 7 NO. 208] (collectively herein the "Plan"), which Plan was considered by the Court at a duly noticed
 8 hearing on October 18, 2011. The result of the hearing was a confirmed Plan.
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10 3. In fact, the FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF
 11 ORDER CONFIRMING DEBTORS' SECOND AMENDED PLAN OF REORGANIZATION, AS
 12 AMENDED, was filed and entered herein on December 20, 2011 (Docket No. 220) and the ORDER
 13 CONFIRMING DEBTORS' SECOND AMENDED PLAN OF REORGANIZATION, AS
 14 AMENDED was filed and entered herein on December 28, 2011 [Docket No. 223].
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16 4. As referenced in the SECOND AMENDMENT TO DEBTORS' SECOND
 17 AMENDED PLAN OF REORGANIZATION, AS AMENDED, filed herein on October 18, 2011
 18 [Docket No. 206], the undersigned was appointed as the Disbursing Agent for the Debtors' bankrupt
 19 estate. The Disbursing Agent has sole authority to make decisions to sell all of the Debtors' non-
 20 exempt real and personal property, subject to Court approval, after notice and hearing.
 21

22 4. With respect to the Debtors' non-exempt claimed personal property assets, the
 23 Debtors' claim owning a 2005 X Line motor home with an estimated market value of \$150,000.00,
 24 as stated in the Amended Schedule B to the Debtors' Voluntary Petition filed on September 30, 2010
 25 [Docket No. 40]. With respect to this motor home, the Debtors pledged their motor home as security
 26 to the payment of any Court approved attorney's fees and costs of HARRIS-PETRONI, LTD, given
 27 the fact that no monies were paid as an advance retainer to said law firm at the time they took over
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1 the case from the attorney who originally filed the Petition on behalf of the Debtors. The fact that the
2 law firm was going to retain a security interest in the motor home was disclosed in Exhibit A to the
3 APPLICATION FOR ORDER AUTHORIZING DEBTORS TO EMPLOY ATTORNEYS
4 [BELDING HARRIS & PETRONI, LTD], filed herein on August 3, 2010 [Docket No. 23], which
5 Application was approved by an Order of the Court entered on October 25, 2010 [Docket No. 74].
6 Debtors appropriately provided the original title of the motor home to HARRIS-PETRONI, LTD,
7 however Debtors retained physical possession of the motor home. It is believed that the Debtors
8 currently have the motor home in storage somewhere in Sandy, Utah, although the Debtors may have
9 it located at their second residence located in St. George, Utah.
10

11 6. While originally the Debtors had agreed that the motor home could be liquidated to
12 pay any Court approved attorney's fees and costs to HARRIS-PETRONI, LTD, it is more important
13 for purposes of executing and implementing their confirmed Plan that the Debtors' use the motor
14 home sales proceeds to continue to fund monthly payments to First Financial Bank under the Plan,
15 than it is to pay the outstanding attorney's fees and costs at this juncture. Sometime in June/July
16 2012, the Debtors are going to lose their largest tenant in the Treadway Professional Office Park
17 complex located in Carson City, Nevada. That tenant pays monthly rent of approximately \$10,000.00
18 per month, which payment allows the Debtors to fund a monthly payment to First Financial Bank
19 under the Plan in an approximate amount of \$5,507.63, which payments are current through March
20 1, 2012. Monthly operating expenses at the Office Park run around \$4,500.00 per month.
21 Additionally, another small tenant recently moved out of the complex. The property manager reports
22 that once the major tenant moves out, and presuming a new tenant is not found by that time, the
23 monthly income for the Office Park will only be \$3,800.00, which will leave a shortfall of
24 approximately \$6,000.00 per month. Given this forthcoming significant decrease in income as a
25 result of this large vacancy, unless the Debtors supplement the monies on deposit with Sperry Van
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1 Ness, property manager for the Debtors, there will be insufficient funds available to pay the monthly
2 payment due First Financial Bank. This lack of funds to make monthly payments will cause a default
3 under the terms of the confirmed Plan, which will allow First Financial Bank to recommence its
4 trustee's foreclosure sale against the Treadway Office Park complex and perhaps also commence
5 foreclosure proceedings against real property collateral located in the Elephant Ranch, assuming there
6 is a deficiency owing First Financial Bank as a result of any trustee's foreclosure sale on the Treadway
7 Professional Office Park. Therefore, after the Debtors return the motor home to the Disbursing Agent
8 in Reno, NV, Debtors' Disbursing Agent will place the motor home for sale with Jeff Holomon, who
9 is a reputable boat and RV seller in the Northern Nevada area. It is hard to estimate the value of the
10 motor home in its current condition, but it could have a value of \$40,000.00 to \$80,000.00, which
11 funds would then be placed in the Sperry Van Ness management account in order to maintain monthly
12 payments on the Treadway Office Park loans owing to First Financial Bank, pursuant to the terms of
13 the Debtor's confirmed Plan.
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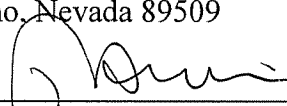
16 7. The Disbursing Agent has repeatedly requested of the Debtors to deliver their motor
17 home to Reno, Nevada, so it can be placed for sale, in order to acquire funds to maintain the monthly
18 payments owing to First Financial Bank in a timely manner. Notwithstanding the Disbursing Agent's
19 requests to deliver the motor home, the Debtors have failed to respond. Indeed, Debtors have failed
20 to respond to the Disbursing Agent's requests for the Debtors to confirm any payments required to be
21 made under the Plan have in fact been paid (other than the First Financial Bank payment which
22 continues to be processed through Harris-Petroni, LTD.).
23

24 Therefore, the Disbursing Agent respectfully requests an Order from this Court under
25 Section 1142 of the Bankruptcy Code ordering the Debtors to turnover their 2005 X Line motor home
26 to the Disbursing Agent within five days of the date of the entry of the order so she can market the
27 motor home for sale in order to liquidate same and upon Court approval, deposit those sales proceeds
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1 in the Sperry Van Ness management account for the benefit of Treadway Professional Office Park in
2 order to maintain the monthly payments to First Financial Bank as required under the Debtors'
3 confirmed Plan. At such time as the income from Treadway rents is an amount sufficient to fund the
4 payments to First Financial Bank, then Disbursing Agent may withdraw such funds and apply them
5 to the payment of attorney's fees to Harris-Petroni, LTD.
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8 DATED this 10 day of March 2012.

9 GLORIA M. HARRIS-PETRONI.
10 417 West Plumb Lane
11 Reno, Nevada 89509

12 /s/ 
13 Attorney for Debtors
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